



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/054,406	01/22/2002	Harlan T. Beverly	ITL.0702US	5109
21906	7590	04/10/2006	EXAMINER	
TROP PRUNER & HU, PC 8554 KATY FREEWAY SUITE 100 HOUSTON, TX 77024			TAYLOR, NICHOLAS R	
			ART UNIT	PAPER NUMBER
			2141	

DATE MAILED: 04/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

(e)

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/054,406	BEVERLY, HARLAN T.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Nicholas R. Taylor	2141	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 25 January 2006.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-32 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 22 January 2002 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                     | Paper No(s)/Mail Date. _____ .  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____ .                                  |

## DETAILED ACTION

1. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn. The claims are now rejected under new grounds, and accordingly this action is NON-FINAL.
2. Claims 1-32 have been presented for examination and are rejected.

### *Claim Rejections - 35 USC § 112*

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claims 31 and 32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 31 refers to using "a size of the data elements", where it is unclear if it is referring to the "first data element", the "other data elements", or even a randomly selected data element.

Claim 32 refers to using "the data size" where it is unclear to which data the language is specifically referring.

### *Claim Rejections - 35 USC § 102*

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-9, 11-19, and 21-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Viswanath et al. (U.S. Patent 6,151,322).

7. As per claims 1, 11, and 21, Viswanath teaches a method comprising:

identifying a first data element to be removed from a data stream including other data elements; (Viswanath, column 7, lines 10-23, where the VLAN portion of an incoming packet is identified while in Receive Buffers 80 of figure 4)

writing said first data element into a first buffer separate from one or more buffers storing the other data elements; and (Viswanath, column 7, lines 26-31, where the VLAN portion is stripped and sent to internal rules checker 68 of figure 4)

preventing the first data element from being read from said first buffer (Viswanath, column 7, lines 35-39, where if the receive buffer does not match / should be removed, only the non VLAN portions left are pushed through receive FIFO 64 into External Memory 34 of figure 4).

8. As per claims 2, 12, and 23, Viswanath teaches the system further wherein identifying a first data element to be removed includes identifying the location of virtual local area network tags within the data stream (Viswanath, column 7, lines 10-23, where

the VLAN portion of an incoming packet is identified while in Receive Buffers 80 of figure 4).

9. As per claims 3 and 13, Viswanath teaches the system further wherein preventing the first data element from being read from said first buffer includes preventing said first data element from being written to any of said one or more buffers (Viswanath, column 7, lines 35-39, where if the receive buffer does not match / should be removed, only the non VLAN portions left are pushed through receive FIFO 64 into External Memory 34 of figure 4, and the VLAN tag is not written to any further buffers).

10. As per claims 4, 14, and 25, Viswanath teaches the system further wherein preventing the first data element from being read from any of said first buffer includes writing the first data element into the first buffer and then overwriting said first data element in said first buffer with one of said other data elements (Viswanath, column 7, lines 26-31, wherein later packets occupy rules checker 68).

11. As per claims 5, 15, and 26, Viswanath teaches the system further wherein writing the other data elements into one or more buffers includes writing the other data elements into one or more other buffers having a size comparable to the size of said first data element (Viswanath, for example external memory 34 of figure 4).

12. As per claims 6, 16, and 27, Viswanath teaches the system further including producing a contiguous uninterrupted output data stream with said first data element removed (Viswanath, column 7, lines 62-64 and figure 5, item 92).

13. As per claims 7, 17, and 28, Viswanath teaches the system further including receiving a data stream including said first data element and said other data elements and distributing said other data elements to a plurality of buffers (Viswanath, see buffers in items 34, 80, 68 of figure 4 and items 34, 98, 92 of figure 5).

14. As per claims 8, 18, and 29, Viswanath teaches the system further including reading said other data elements out of said plurality of buffers through a multiplexer to generate a contiguous data stream (Viswanath, column 7, line 55 to column 8, line 3; see item 95 of figure 5).

15. As per claims 9 and 19, Viswanath teaches the system further including receiving a data unit that includes two data elements, storing one of said two data elements in a first buffer and the other of said two data elements in a second buffer (Viswanath, see buffers in items 34, 80, 68 of figure 4 and items 34, 98, 92 of figure 5, responsible for holding different data elements such as the ones outlined in figure 1B).

16. As per claim 22, Viswanath teaches the system further wherein said system is an Ethernet adapter (Viswanath, column 4, line 61 to column 5, line 20).

17. As per claim 24, Viswanath teaches the system further wherein said control prevents the first data element from being read from any of said buffers (Viswanath, column 7, lines 35-39, where if the receive buffer does not match / should be removed, only the non VLAN portions left are pushed through receive FIFO 64 into External Memory 34 of figure 4).

***Claim Rejections - 35 USC § 103***

18. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

19. Claims 10, 20, and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Viswanath et al. (U.S. Patent 6,151,322) and Dorsey et al. (US PGPub 2001/0033580).

20. As per claims 10, 20, and 30, Viswanath teaches the above, yet fails to teach including outputting one of said two data elements through a first multiplexer and outputting the other of said data elements through a second multiplexer.

Dorsey teaches a packet pipeline control and translation system that sends different data elements through first and second multiplexers (Dorsey, paragraphs 0011, 0092, and figure 9). It would have been obvious to one of ordinary skill in the art, at the

time the invention was made, to have combined Viswanath and Dorsey to provide the translation system of Dorsey in the system of Viswanath, because doing so would enable enhanced speed, providing an equivalent or closer to hardware-based translation (Dorsey, paragraph 0038).

### ***Conclusion***

21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicholas Taylor whose telephone number is (571) 272-3889. The examiner can normally be reached on Monday-Friday, 8:00am to 5:30pm, with alternating Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on (571) 272-3880. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3718.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nicholas Taylor

LEHRMAN  
PRIMAN PLLC 174